

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
DOREEN WHETHERS, et al.,

Plaintiffs,

-against-

NASSAU HEALTH CARE CORP., et al.,

Defendants.
-----X

ORDER

CV 06-4757 (LDW) (ARL)

LINDSAY, Magistrate Judge:

Before the court is plaintiffs' letter dated December 28, 2006 requesting that the court extend the time to effect service upon defendant Michael Deluca by ninety days. The complaint in this action was filed on August 30, 2006 and the plaintiffs amended their complaint as of right on September 11, 2006. Accordingly, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service of the amended complaint should have been completed by January 11, 2007. According to the plaintiffs, attempts to serve Mr. Deluca have been unsuccessful. Plaintiffs have detailed the attempts made to effect service on Mr. Deluca in the affidavit of their process server, Lougliste Joseph, dated December 28, 2006, which affirms that Nassau University Medical Center, Deluca's last known employer, has declined to accept service on his behalf and that the plaintiffs have been unable to locate Mr. Deluca's home address.

On November 15, 2006, the law firm Clifton Budd & DeMaria, LLP, by Brian J. Clark, Esq., filed a notice of appearance as counsel for Mr. Deluca, as well as all of the other defendants with the exception of Richard Turan. Counsel has not opposed plaintiffs' application. Given the efforts made to effect service on Mr. Deluca, the court finds that the plaintiffs have shown good cause, as Rule 4(m) requires, for the extension sought. Thus, the application is granted.

However, given the fact that defense counsel presumably can provide Mr. Deluca's address to plaintiffs' counsel thereby expediting service, this court will not delay the progress of this case, including the entry of a pretrial scheduling order, pending service on Mr. Deluca. The parties are reminded that the initial conference before the undersigned will proceed as scheduled on January 24, 2007 at 2:00 p.m.

Dated: Central Islip, New York
January 16, 2007

SO ORDERED:

/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge